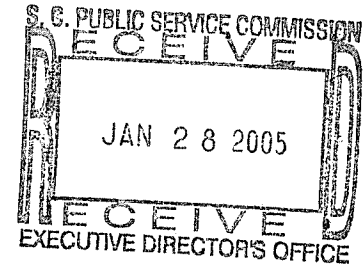


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**THE PUBLIC SERVICE COMMISSION**

**OF**

**SOUTH CAROLINA**

**DOCKET No.: 2004-297-S**

**Application of Midlands Utility, Inc. for  
Approval of New Schedule of Rates and Charges  
for Sewage Service provided to Its Customers in Richland,  
Lexington Fairfield and Orangeburg Counties**

**PREFILED DIRECT TESTIMONY**

**OF**

**KEITH G. PARNELL**

**January 27, 2005**

1   **Q.     Please state your name, business address and your affiliation with the**  
2   **applicant Midlands Utility, Inc. (Midlands).**

3   A.     Keith G. Parnell, 816 East Main Street, Lexington, South Carolina 29072. I am  
4   the President and Operations Manager for Midlands Utility, Inc., which I will refer to in  
5   my testimony as Midlands.

6   **Q.     Please describe your educational and professional background.**

7   A.     I graduated from the University of South Carolina with a B.S. Degree in Civil  
8   Engineering in 1981 and obtained a Masters from U.S.C. in Water Resource Engineering  
9   in 1983. I was employed as an engineer from 1983 to 1985 by the United States Naval  
10  Facilities Engineering Command. From 1985 through 1990, I practiced civil engineering  
11  for B.P. Barber Company in Columbia, South Carolina. I am also currently registered as  
12  a Professional Engineer by the State of South Carolina. I am employed as Midlands'  
13  Operations Manager. I am also employed as Operations Manager for Bush River Utilities,  
14  Inc.(Bush River) and Development Service, Inc., (DSI). Midlands, Bush River and DSI  
15  are owned by my brother C. Ken Parnell and me. Both of us are professional engineers  
16  and we acquired all three utilities from our parents. We operate the companies using a  
17  common staff, sharing of assets and equipment, and pledging of all assets to obtain  
18  necessary financing. Each of the three companies is a public utility regulated by the  
19  South Carolina Public Service Commission.

20  **Q.     Please describe Midlands' service and customer base.**

21  A.     Midlands is a closely held privately owned corporation furnishing sewer  
22  collection and sewer treatment service to nearly 3,000 residential and commercial  
23  customers in Richland, Lexington, Fairfield and Orangeburg Counties. Midlands

1 operates under a schedule of rates approved by this Commission in Order No. 97-517,  
2 Docket No. 96-160-S dated June 17, 1997. By Commission Order No. 2002-138, in  
3 Docket No. 2001-380-S dated March 1, 2002, the Commission approved a schedule for a  
4 collection only residential sewer charge for Midlands.

5 **Q. Please describe Midlands operations more fully.**

6 A. Midlands collects and treats sanitary sewerage for its customers. The Bellemeade  
7 and Windy Hill subdivisions in Lexington County and the Raintree Acres subdivision in  
8 Richland County are all served by Midlands' sanitary sewer lagoons. Midlands provides  
9 collection only service to certain of its customers in vicinity of Cayce, South Carolina,  
10 and transports the sewerage to the City of Cayce for treatment. Midlands provides its  
11 customers in the Van Arsdale community with collection only service and transports the  
12 sewerage to Carolina Water Service for treatment. Midlands serves its customers in  
13 Fairfield County as a collection only service and transports the sewerage to the City of  
14 Winnsboro for treatment. Similarly, Midlands serves its customers in Orangeburg  
15 County as a collection only service and the sewerage is transported to the City of  
16 Orangeburg for treatment.

17 **Q. Please relate the facts and circumstances leading up to this application before**  
18 **the South Carolina Public Service Commission.**

19 A. As a public utility, Midlands is under the jurisdiction of this Commission.  
20 However, the South Carolina Department of Health and Environmental Control (DHEC)  
21 also has authority over Midlands since it regulates its wastewater discharges. By consent  
22 order, DHEC has required Midlands construct upgrades to Raintree Acres, Bellemeade  
23 and Windy Hill wastewater treatment facilities at a total cost of \$1,582,000. In particular,

1 DHEC has required Midlands to close its Raintree Acres, Bellemeade and Windy Hill  
2 lagoons. With respect to the lagoons serving the Raintree Acres and Bellemeade  
3 subdivisions, DHEC, as the Commission may remember, had ordered Midlands to close  
4 the lagoons serving these subdivisions and contract with Richland County and the City of  
5 Cayce respectively for treatment of the sewerage from these subdivisions. By virtue of  
6 this Commission's authority to approve all such contracts, Midlands submitted both  
7 contracts for approval and by its orders, this Commission refused to approve the proposed  
8 contracts with the regional providers. As a consequence, under the terms of its consent  
9 orders with DHEC, Midlands must now construct upgrades to the Raintree Acres and  
10 Bellemeade facilities and close the lagoons serving these subdivisions. In addition,  
11 DHEC has required Midlands to close its Windy Hill lagoon and build a replacement  
12 plant to treat the sewerage from the Windy Hill subdivision. Please see a copy of the  
13 Raintree Acres DHEC Consent Order 03-043-W attached hereto as **Exhibit 1**. Also  
14 please see a copy of the Bellemeade DHEC Consent Order 03-044-W attached hereto as  
15 **Exhibit 2**. Last, please see a copy of the Windy Hill DHEC Consent Order #03-048-W.  
16 **Exhibit 3**.

17 **Q. Please describe the upgrades you propose to build for these facilities.**

18 A. Relying upon current technology, Midlands will build sequencing batch reactors  
19 or SBR(s) as replacement plants for all of our lagoons. For instance, the SBR required at  
20 Windy Hill has a capacity of 50,000 discharge gallons per day and can be pre-constructed  
21 by the manufacturer at offsite fabricating facilities and delivered by heavy trucks to the  
22 construction site. Midlands will construct the concrete pad or pads upon which the SBR  
23 will be attached and secured by the manufacturer at the time of delivery. Midlands will

1 then construct the necessary piping and appurtenances to be fitted to the SBR in  
2 compliance with DHEC requirements. By acting as the general contractor and by seeking  
3 competitive quotes for the SBR and component parts, Midlands will save both our  
4 customers and ourselves the additional costs of a bidding process and the retaining of a  
5 general contractor. In like fashion, Midlands will construct an SBR at Raintree Acres  
6 with a 140,000 discharge gallon per day capacity. The Bellemeade replacement plant  
7 will be an 80,000 discharge gallon per day SBR.

8 **Q. What will it cost to close the lagoons?**

9 A. Closing each of Midlands' three lagoons will cost approximately \$100,000 per  
10 lagoon. This cost is in addition to the construction upgrade costs.

11 **Q. The application requests rate increases to be implemented in two stages.**  
12 **Please explain.**

13 A. Midlands' last rate increase was approved in 1997, and was based on the level of  
14 operating expenses experienced in the test year ending June 30, 1996. In addition to the  
15 increased operating costs experienced in the preceding eight years, Midlands will incur  
16 additional cost and expense associated with the increased cost of treatment resulting from  
17 its construction of its wastewater treatment facility improvements. These additional costs  
18 alone will necessitate and justify the first stage rate increase. The second stage increase  
19 in rates was requested so as to enable Midlands to pay the resulting increase in operating  
20 costs necessitated by the construction of the required upgrade, costs which include its  
21 share of interest, principal repayment and depreciation for the three companies'  
22 obligations under its loan with a commercial bank.

1   **Q.     Explain how Midlands proposes to finance the construction of improvements**  
2   **to its wastewater treatment facilities?**

3   A.     The necessity to upgrade its wastewater treatment facilities imposed upon  
4   Midlands by DHEC required Midlands, Bush River and DSI to execute a loan agreement  
5   obligating the three utilities jointly and severally to repay \$2,021,400 which will be  
6   ultimately borrowed following appropriate approvals of rates by this Commission. Also  
7   as the Commission is aware, part of the loan proceeds are to be used to benefit Bush  
8   River and DSI.

9   **Q.     Mr. Parnell, please describe the details of this loan.**

10   A.     Midlands, Bush River and DSI have entered into a loan which closed on April 8,  
11   2004. In order to borrow the necessary funds, all three companies' assets were pledged,  
12   together with a personal guarantee by my brother and me. Approximately \$80,000 was  
13   expended for the purpose of paying for appraisals, surveys, abstracts, origination fees and  
14   related legal fees. The real estate mortgaged is primarily owned by Midlands and Bush  
15   River and is located in the counties of Richland, Lexington, Fairfield and Orangeburg.  
16   The lender is Branch Banking & Trust Company (BB&T) for a total loan amount of  
17   \$2,021,400. Please see a copy of the note as attached hereto as **Exhibit 4**.

18   **Q.     What are the interest provisions and repayment conditions of the loan?**

19   A.     The loan is scheduled to be repaid 60 months from April 8, 2004, through the  
20   same date in 2009. The loan has a repayment amortization of 15 years with a balloon  
21   payment due at the maturity of the five years. Interest is currently 5.4%. The loan has a  
22   collar with a floor rate of 4.65% and a ceiling of 7.70%. The bank allowed us to receive  
23   about \$50,000 as an advance toward closing costs. Any further advances are restricted

1 depending upon whether the respective companies obtain necessary rate increases by this  
2 Commission.

3 **Q. Mr. Parnell, are you familiar with each of the exhibits filed with Midlands'**  
4 **rate application?**

5 A. Yes. I have personally been involved with the preparation of the information in  
6 each exhibit and those which were not directly prepared by me were prepared under my  
7 supervision.

8 **Q. Mr. Parnell, are the expenses, revenue and adjustments to operating**  
9 **expenses as exhibited in the application of Midlands in this docket accurate?**

10 A. Yes, they are.

11 **Q. Do you consider the proposed new rates fair and reasonable?**

12 A. Yes. I believe that the proposed rates will generate sufficient revenues for the  
13 company to meet its expenses and provide a reasonable return to the owners of the  
14 company. I also believe that the revised rates are fair and reasonable to our customers in  
15 light of the increasing regulatory and environmental pressures which sewer companies  
16 are subjected to these days.

17 **Q. Mr. Parnell, do you believe that the proposed two stage rate increases are**  
18 **just, fair and reasonable to all of Midlands' customers?**

19 A. Yes, I do. Should this Commission decline to increase the rates in stages, the rates  
20 resulting from the second stage increase requested are fair and reasonable to our  
21 customers and provide a reasonable return to our company.

22 **Q. Does this conclude your testimony?**

23 A. Yes.

EXHIBIT 1

DIRECT TESTIMONY

OF

KEITH G. PARNELL

THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

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IN RE: MIDLANDS UTILITY, INC.  
RAINTREE ACRES SUBDIVISION  
RICHLAND COUNTY

---

CONSENT ORDER  
03-043-W

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Midlands Utility, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving the residents in and contiguous to Raintree Acres and Dutch Creek Subdivisions located in Richland County, South Carolina.

A review of the Respondent's file by the South Carolina Department of Health and Environmental Control (Department) revealed that the Respondent violated the Pollution Control Act, S.C. Code Ann. §§ 48-1-10 et seq. (1987 & Supp. 2002) and National Pollutant Discharge Elimination System (NPDES) Permit SC0039055 in that it exceeded the permitted discharge limits for biochemical oxygen demand (BOD), fecal coliform bacteria (FC), and flow, and failed to properly operate and maintain the WWTF in accordance with the NPDES permit. In addition, the Respondent failed to provide for daily visits by a certified operator of appropriate grade, and failed to sample pH and dissolved oxygen (DO) on a daily basis, as required by the NPDES permit.

In accordance with approved procedures and based upon discussions with the Respondent on February 8, 2001, October 17, 2002, and March 27, 2003, the parties have agreed to the issuance of this Order to include the following Findings of Fact and Conclusions of Law.

In the interest of resolving this matter without delay and expense of litigation the Respondent agrees to the entry of this Consent Order, but neither agrees nor disagrees with the Findings of Fact or the Conclusions of Law; and therefore, agrees that this Order shall be deemed an admission of fact

and law only as necessary for enforcement of this Order by the Department or subsequent actions relating to the Respondent by the Department.

### FINDINGS OF FACT

1. NPDES Permit SC0039055 allows the Respondent to discharge treated wastewater to Broad River in accordance with the effluent limitations, monitoring requirements and other conditions as set forth therein. The permit expired April 30, 1990. The permit was not reissued due to the designation of the WWTF for elimination by the area-wide 208 plan.
2. On August 28, 2000, the Department issued a Notice of Violation to the Respondent for violations of the permitted discharge limits for BOD, FC, and flow during the January 1, 2000, through June 30, 2000, monitoring periods. In a letter dated September 8, 2000, the Respondent replied to the NOV, stating that it had a pending contract with a regional sewer provider, and that it would continue to operate the WWTF until the regional sewer provider obtained the necessary capacity for the connection.
3. A review of Operation and Maintenance (O&M) and Compliance Sampling Inspections (CSIs) performed on the Respondent's WWTF by Department staff for the January 1, 2000, through April 30, 2002, monitoring periods has revealed the following deficiencies:

| <u>Inspection Date</u> | <u>Type</u> | <u>Rating</u>  | <u>Deficiencies Noted</u>  |
|------------------------|-------------|----------------|--|
| 01/17/2000             | O&M         | Unsatisfactory | Flow meter not properly calibrated, only one aerator operating, no daily visits by operator, pH and DO not sampled daily |
| 01/17/2000             | CSI         | Compliant      | None   |
| 06/12/2000             | CSI         | Noncompliant   | FC   |
| 08/08/2000             | O&M         | Unsatisfactory | Flow meter not properly calibrated, only one aerator is working  |
| 10/02/2000             | CSI         | Noncompliant   | FC   |

|            |     |              |      |
|------------|-----|--------------|------|
| 10/01/2001 | CSI | Compliant    | None |
| 02/25/2002 | CSI | Noncompliant | BOD  |
| 04/01/2002 | CSI | Noncompliant | BOD  |

4. A review of discharge monitoring reports submitted by the Respondent for the January 1, 2000, through January 31, 2003, has revealed the following violations of the permitted discharge limits:

BOD - January, May, August, October and November 2000, January, February, March, May and September 2001, and February, March and April 2002;

Flow - January 2000; and

FC - June 2000.

5. The Respondent is a public utility regulated by the South Carolina Public Service Commission (PSC).
6. PSC Regulation R.103-541 provides for PSC approval of all utility contracts including connection agreements by sewer systems with a regional provider.

### CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (Supp. 2002), and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(a)(1) (Supp. 2002), in that it failed to comply with the permitted discharge limits for BOD, FC and flow as specified in Part I.A.1 of the NPDES permit.
2. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (Supp. 2002), and Water Pollution Control Permits, 24 S.C. Code Ann. 61-9.122.41(e) (Supp.

2002), in that it failed to, at all times, properly operate and maintain the WWTF in accordance with the NPDES permit.

3. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

**NOW, THEREFORE, IT IS ORDERED**, pursuant to the Pollution Control Act, S.C. Code Ann. 48-1-50 (1987) and § 48-1-100 (Supp. 2002), that the Respondent shall:

1. Within sixty (60) days of the execution date of this Order, submit to the PSC for approval a contract for sewer service with the regional sewer provider.
2. If the contract is approved by the PSC:
  - a) Within sixty (60) days of the PSC's final Order, submit to the Department administratively complete plans and specifications and an application for a permit to construct addressing elimination of the discharge by connection to regional sewer, including a plan for closure of the WWTF in accordance with Water Pollution Control Permits, 25 S.C. Code Ann. Regs. 61-9.503 (Supp. 2002), Proper Closeout of Wastewater Treatment Facilities, S.C. Code Ann. Regs. 61-82 (1976), and Standards for Wastewater Facility Construction, S.C. Code Ann. Regs. 61-67 (Supp. 2002). The closure plan may address closure in two (2) phases: treated wastewater removal, then sludge management and other closure issues.
  - b) Within forty-five (45) days of the issuance of the permit to construct, begin construction on the connection to regional sewer.
  - c) Within one hundred twenty (120) days of beginning construction, complete

construction of the connection to regional sewer and divert influent wastewater from the WWTF to the regional sewer system. The Respondent may discharge residual liquids from the WWTF for a period of ninety (90) days under the terms and conditions of the NPDES permit.

- d) Within two hundred seventy (270) days of date when the influent flow is diverted to the regional sewer system, close out the WWTF in accordance with the approved plan.

3. If the PSC denies the contract:

- a) Within sixty (60) days of the Department's approval of the PER, submit to the Department administratively complete plans and specifications and an application for a permit to construct addressing upgrade of the WWTF to meet permitted discharge limits.
- b) Within ninety (90) days of issuance of the permit to construct, begin construction of the permitted upgrade to the WWTF.
- c) Within one hundred eighty (180) days of beginning construction, complete construction of the upgrade to the WWTF and request operational approval from the Department. After the permit to operate is issued, immediately divert influent wastewater to the new WWTF. In order to comply with the Reliability Classification I requirements as specified in Standards for Wastewater Facility Construction, S.C. Code Ann. Regs. 61-67 (Supp. 2002), the Department will allow an additional one hundred eighty (180) days for the Respondent to have the necessary components constructed to meet Reliability Class I requirements as it may relate to the conversion of the lagoon system to other functions.

4. Pay to the Department a civil penalty in the amount of thirteen thousand two hundred dollars (\$13,200.00), payable in quarterly installments over a period of thirty (30) months, together with interest on the outstanding balance calculated at 8.75% per annum, with the first installment due on May 5, 2003. The Respondent may pay the penalty in full at any time.

**IT IS FURTHER ORDERED AND AGREED** that where the Department or the PSC has requested information in connection with the above actions, the Respondent shall respond to such requests in a timely fashion.

**THEREFORE IT IS FURTHER AGREED** that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, the Respondent shall notify the Department in writing at least one (1) week before the scheduled date, describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean any event arising from causes beyond the control of the Respondent that causes a delay in or prevents the performance of any of the conditions under this Consent Order including, but not limited to: a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; c) restraint by court order or order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency

or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the Respondent.

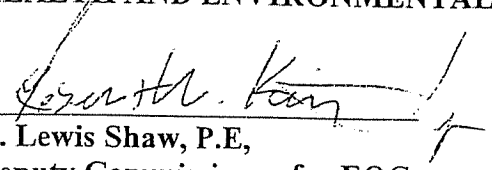
Events which are not *force majeure* include by example, but are not limited to, unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or any person's failure to exercise due diligence in obtaining governmental permits or fulfilling contractual duties. Such determination will be made in the sole discretion of the Department. Any extension shall be incorporated by reference as an enforceable part of this Consent Order and thereafter be referred to as an attachment to the Consent Order.

**PURSUANT TO THIS ORDER**, all communication regarding this Order and its requirements shall be addressed as follows:

Anastasia Hunter-Shaw  
Water Enforcement Division  
Bureau of Water  
SCDHEC  
2600 Bull Street  
Columbia, S.C. 29201

**IT IS FURTHER ORDERED AND AGREED** that failure to comply with any provisions of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), to include the assessment of additional civil penalties.

**THE SOUTH CAROLINA DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL CONTROL**

  
\_\_\_\_\_  
R. Lewis Shaw, P.E.,  
Deputy Commissioner for EQC

DATE: 4/7/03

Alton C. Boozer  
Alton C. Boozer, Chief  
Bureau of Water

DATE: 7 April, 2003

WE CONSENT:

Karl A. Paul  
Midlands Utilities, Inc.

DATE: 4/4/03

Mason A. Summers  
Attorney for the Department

DATE: 4/4/03

Valerie A. Betterton  
Valerie A. Betterton, Director  
Water Enforcement Division

DATE: 4/7/03

EXHIBIT 2

DIRECT TESTIMONY

OF

KEITH G. PARNELL

THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

---

IN RE: MIDLANDS UTILITY, INC.  
BELLEMEADE SUBDIVISION  
LEXINGTON COUNTY

---

CONSENT ORDER  
03-044-W

---

Midlands Utility, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving the residents in and contiguous to Bellemeade Subdivision and the Pitt Stop Truck Stop located in Lexington County, South Carolina.

The Respondent violated the Pollution Control Act, S.C. Code Ann. §§ 48-1-10 et seq. (1987 & Supp. 2002) and National Pollutant Discharge Elimination System (NPDES) Permit SC0030988 in that it exceeded the permitted discharge limits for ammonia-nitrogen (NH<sub>3</sub>-N), biochemical oxygen demand (BOD), dissolved oxygen (DO), fecal coliform bacteria (FC), pH and total residual chlorine (TRC), as specified in Part I.A.1 of the NPDES permit.

In accordance with approved procedures and based on discussion with the Respondent on March 27, 2003, the parties have agreed to the issuance of this Order to include the following Findings of Fact and Conclusions of Law.

In the interest of resolving this matter without delay and expense of litigation the Respondent agrees to the entry of this Consent Order, but neither agrees nor disagrees with the Findings of Fact or the Conclusions of Law; and therefore, agrees that this Order shall be deemed an admission of fact and law only as necessary for enforcement of this Order by the Department or subsequent actions relating to the Respondent by the Department.

FINDINGS OF FACT

1. NPDES Permit SC0030988 allows the Respondent to discharge treated wastewater to a ditch to Dry Creek to the Congaree River in accordance with the effluent limitations, monitoring requirements and other conditions set forth therein. The permit expired September 30, 2000. The permit was not reissued due to the designation of the WWTF for elimination by the area-wide 208 plan.
2. Since the expiration of the permit, the Respondent has continued to submit monthly discharge monitoring reports (DMRs) and annual NPDES permitting fees to the Department and otherwise treated the expired permit as continuing to be in effect. The Department has accepted these DMRs and permitting fees.
3. Department staff performed a Compliance Sampling Inspection (CSI) at the Respondent's WWTF on October 8, 2001. Department staff rated the WWTF noncompliant as a result of violations of the permitted discharge limits for  $\text{NH}_3\text{-N}$ , FC and pH.
4. Department staff performed a CSI at the Respondent's WWTF on April 15, 2002. Department staff rated the WWTF noncompliant as a result of violations of the permitted discharge limit for FC.
5. On April 30, 2002, the Department issued a Notice of Violation to the Respondent as a result of violations of the permitted discharge limits for  $\text{NH}_3\text{-N}$  and BOD during the February 1, 2002, through March 31, 2002, monitoring periods. In a letter dated May 15, 2002, the Respondent's agent replied to the NOV, stating that it had submitted a proposal to a regional sewer provider and was awaiting a response.
6. A review of DMRs submitted by the Respondent for the September 1, 2000, through December 31, 2002, monitoring period has revealed the following violations of the permitted discharge limits:

NH<sub>3</sub>-N - September, October, November and December 2000, January, February, March, April, May, June, July, September, October, November and December 2001, and February, March, April, May, June, July, August, October, November and December 2002;

BOD - September, October and November 2000, February, April, May, June July and November 2001, and February and March 2002;

DO - December 2000, January, July, September, October and November 2001, and July and September 2002;

FC - October and December 2000, August and December 2001, and April 2002;

pH - February and May 2002; and

TRC - September, October, November and December 2000, January, February, March, April, May, June, July, September, October, November and December 2001, and March, July and November 2002.

7. The Respondent is a public utility regulated by the South Carolina Public Service Commission (PSC).
8. PSC Regulation R.103-541 provides for PSC approval of all utility contracts including connection agreements by sewer systems with a regional provider.

### **CONCLUSIONS OF LAW**

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (Supp. 2002), and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(a)(1) (Supp. 2002), in that it failed to comply with the permitted discharge limits for NH<sub>3</sub>-N, BOD, DO, FC, pH and TRC as specified in Part I.A.1 of the NPDES permit.
2. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the

Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

**NOW, THEREFORE, IT IS ORDERED**, pursuant to the Pollution Control Act, S.C. Code Ann. 48-1-50 (1987) and § 48-1-100 (Supp. 2002), that the Respondent shall:

1. If, within thirty (30) days of the execution date of this Order, the Respondent receives a contract for sewer service from the City of Cayce, then within sixty (60) days submit to the PSC for approval a contract for sewer service with the City of Cayce, the regional sewer provider.
2. If the contract is approved by the PSC:
  - a) Within sixty (60) days of the PSC's final order, submit to the Department administratively complete plans and specifications and an application for a permit to construct addressing elimination of the discharge by connection to regional sewer, including a plan for closure of the WWTF in accordance with Water Pollution Control Permits, 25 S.C. Code Ann. Regs. 61-9.503 (Supp. 2002), Proper Closeout of Wastewater Treatment Facilities, S.C. Code Ann. Regs. 61-82 (1976), and Standards for Wastewater Facility Construction, S.C. Code Ann. Regs. 61-67 (Supp. 2002).
  - b) Within forty-five (45) days of the issuance of the permit to construct, begin construction on the connection to regional sewer.
  - c) Within one hundred twenty (120) days of beginning construction, complete construction of the connection to regional sewer and divert influent wastewater to the regional sewer system.
  - d) Within one hundred eighty (180) days of diverting the influent wastewater to the regional sewer system, close out the WWTF in accordance with the approved plan.

3. If the PSC denies the contract:
  - a) Within sixty (60) days of the PSC's final order denying the contract, submit to the Department a preliminary engineering report (PER) addressing upgrade of the WWTF to meet the permitted discharge limits.
  - b) Within sixty (60) days of the Department's approval of the PER, submit to the Department administratively complete plans and specifications and an application for a permit to construct addressing upgrade of the WWTF to meet permitted discharge limits.
  - c) Within ninety (90) days of issuance of the permit to construct, begin construction of the permitted upgrade to the WWTF.
  - d) Within two hundred ten (210) days of beginning construction, complete construction of the upgrade to the WWTF and request final operational approval from the Department.
4. Pay to the Department a civil penalty in the amount of twenty-one thousand dollars (\$21,000.00), payable in quarterly installments over a period of thirty (30) months, together with interest on the outstanding balance calculated at 8.75% per annum, with the first installment due on May 5, 2003. The Respondent may pay the penalty in full at any time.

**IT IS FURTHER ORDERED AND AGREED** that where the Department or the PSC has requested information in connection with the above actions, the Respondent shall respond to such requests in a timely fashion.

**THEREFORE IT IS FURTHER ORDERED** that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, the Respondent shall notify the Department in writing at least one (1) week before the scheduled date,

describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean any event arising from causes beyond the control of the Respondent that causes a delay in or prevents the performance of any of the conditions under this Order including, but not limited to: a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; c) restraint by court order or order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the Respondent.

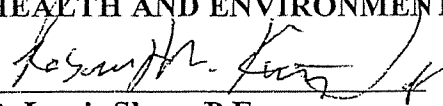
Events which are not *force majeure* include by example, but are not limited to, unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or any person's failure to exercise due diligence in obtaining governmental permits or fulfilling contractual duties. Such determination will be made in the sole discretion of the Department. Any extension shall be incorporated by reference as an enforceable part of this Order and thereafter be referred to as an attachment to the Order.

**PURSUANT TO THIS ORDER**, all communication regarding this Order and its requirements shall be addressed as follows:

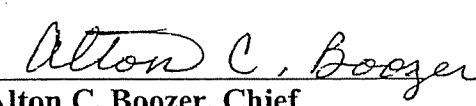
Anastasia Hunter-Shaw  
Water Enforcement Division  
Bureau of Water  
SCDHEC  
2600 Bull Street  
Columbia, S.C. 29201

IT IS FURTHER ORDERED AND AGREED that failure to comply with any provisions of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), to include the assessment of additional civil penalties.

THE SOUTH CAROLINA DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL CONTROL

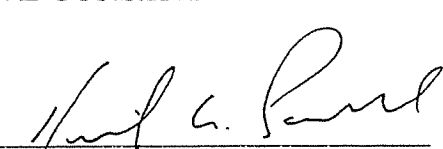
  
R. Lewis Shaw, P.E.  
Deputy Commissioner for EQC

DATE: 4/7/03


  
Alton C. Boozer, Chief  
Bureau of Water

DATE: 7 April, 2003

WE CONSENT

  
Midlands Utilities, Inc.

DATE: 4/4/03

  
Attorney for the Department

DATE: 4/4/03

\_\_\_\_\_

DATE: \_\_\_\_\_

Valerie A. Betterton  
Valerie A. Betterton, Director  
Water Enforcement Division

DATE: 4/7/03

EXHIBIT 3

DIRECT TESTIMONY

OF

KEITH G. PARNELL

THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

---

IN RE: MIDLANDS UTILITIES, INC.  
WINDY HILL SUBDIVISION  
LEXINGTON COUNTY

---

CONSENT ORDER  
03- 048 -W

---

Midlands Utilities, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving Windy Hill Subdivision located in Lexington County, South Carolina.

A review of the Respondent's file by the South Carolina Department of Health and Environmental Control (Department) revealed that the Respondent violated the Pollution Control Act, S.C. Code Ann. §§ 48-1-10 et seq. (1987 & Supp. 2002) and Land Application Discharge Permit ND0067075 in that it exceeded the permitted discharge limits for biochemical oxygen demand (BOD) as specified in Part I.A.1 of the permit.

In accordance with approved procedures and based upon discussions with the Respondent on March 27, 2003, the parties have agreed to the issuance of this Order to include the following Findings of Fact and Conclusions of Law.

In the interest of resolving this matter without delay and expense of litigation the Respondent agrees to the entry of this Consent Order, but neither agrees nor disagrees with the Findings of Fact or the Conclusions of Law; and therefore, agrees that this Order shall be deemed an admission of fact and law only as necessary for enforcement of this Order by the Department or subsequent actions relating to the Respondent by the Department.

FINDINGS OF FACT

1. Department staff issued Land Application Discharge Permit ND0067075, allowing the Respondent to discharge treated wastewater to a spray field and/or tile field located behind the WWTF in accordance with the effluent limitations, monitoring requirements and other conditions set forth therein.
2. The Respondent reported violations of the permitted discharge limits for BOD on discharge monitoring reports submitted to the Department for the March, July and October 2002 and January 2003 monitoring periods.
3. The regional sewer system owned by the Lexington County Joint Municipal Water & Sewer Commission is not available to the Respondent for connection due to a lack of treatment capacity in its system at this time.

### **CONCLUSIONS OF LAW**

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (Supp. 2002), and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.505.41(a)(2) (Supp. 2002), in that it failed to comply with the permitted discharge limits for BOD as specified in Part I.A.1 of the permit.
2. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

**NOW, THEREFORE, IT IS ORDERED, CONSENTED TO AND AGREED**, pursuant to the Pollution Control Act, S.C. Code Ann § 48-1-50 (1987) and § 48-1-100 (Supp. 2002), that the

Respondent shall:

1. Within sixty (60) days of the execution date of this Order, submit to the Department a Preliminary Engineering Report (PER) addressing upgrade of the WWTF to meet permitted discharge limits.
2. Within sixty (60) days of Department approval of the PER, submit to the Department the plans and specifications and an application for a permit to construct addressing upgrade of the WWTF to meet permitted discharge limits.
3. Within ninety (90) days of issuance of permit to construct, begin construction of the permitted upgrade to the WWTF.
4. Within two hundred forty (240) days of the beginning of construction, complete construction of the upgrade to the WWTF and request final operational approval from the Department.
5. Pay to the Department a civil penalty in the amount of two thousand eight hundred dollars (\$2,800.00), payable in quarterly installments over a period of thirty (30) months, together with interest on the outstanding balance calculated at 8.75% per annum, with the first payment due on May 5, 2003. The Respondent may pay the penalty in full at any time.

**IT IS FURTHER ORDERED AND AGREED** that where the Department has requested information in connection with the above actions, the Respondent shall respond to such requests in a timely fashion.

**THEREFORE IT IS FURTHER AGREED** that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, the Respondent shall notify the Department in writing at least one (1) week before the scheduled date, describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable

by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean any event arising from causes beyond the control of the Respondent that causes a delay in or prevents the performance of any of the conditions under this Consent Order including, but not limited to: a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; c) restraint by court order or order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the Respondent.

Events which are not *force majeure* include by example, but are not limited to, unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or any person's failure to exercise due diligence in obtaining governmental permits or fulfilling contractual duties. Such determination will be made in the sole discretion of the Department. Any extension shall be incorporated by reference as an enforceable part of this Consent Order and thereafter be referred to as an attachment to the Consent Order.

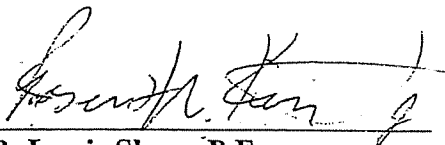
**PURSUANT TO THIS ORDER**, all communication regarding this Order and its requirements shall be addressed as follows:

Anastasia Hunter-Shaw  
Water Enforcement Division

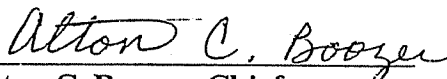
Bureau of Water  
SCDHEC  
2600 Bull Street  
Columbia, S.C. 29201

IT IS FURTHER ORDERED AND AGREED that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), to include the assessment of additional civil penalties.

**THE SOUTH CAROLINA DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL CONTROL**

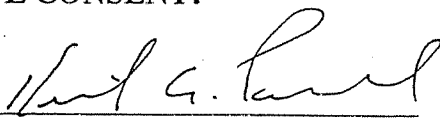
  
R. Lewis Shaw, P.E.,  
Deputy Commissioner for EQC

DATE: 4/7/03

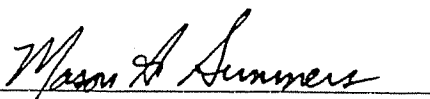
  
Alton C. Boozer, Chief  
Bureau of Water

DATE: 7 April, 2003

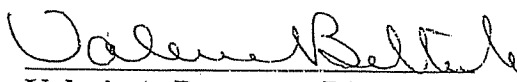
**WE CONSENT:**

  
Midlands Utilities, Inc.

DATE: 4/4/03

  
Mason A. Summers  
Attorney for the Department

DATE: 4/4/03

  
Valerie A. Betterton, Director  
Water Enforcement Division

DATE: 4/7/03

EXHIBIT 4

DIRECT TESTIMONY

OF

KEITH G. PARNELL

**BB&T****Branch Banking & Trust Co.  
of South Carolina**309 Columbia Avenue  
Lexington, SC 29072  
(803) 359-5111  
Fax (803) 359-6683

July 29, 2003

Midlands Utility Inc  
Attn: Keith Parnell**COMMITMENT LETTER**

Dear Keith:

Branch Banking and Trust Company is pleased to offer you the following commitment for a loan. The terms and conditions of this Commitment are as follows:

1. Borrower: Midlands Utility, Bush River Utility, and Development Services Inc.
2. Purpose: The proceeds of the Loan shall be used by the Borrower to construct up to four new wastewater treatment facilities as approved by the Public Service Commission.
3. Collateral: The Loan shall be secured by a first mortgage on the facilities being constructed. The loan shall be secured by all equipment and sewer lines owned by borrower. The loan shall be secured by all ownership stock of the borrowing entities. The bank shall also take an assignment of any contracts with customers for Midlands Utility and related companies.
4. Amount: The maximum principal amount of the Loan shall be \$2,021,400.
5. Advances: The proceeds of the Loan shall be advanced as construction progresses and as rate increases are authorized by the Public Service Commission.
6. Interest Rate: The interest rate on the Loan shall be the variable rate of the bank's prime rate plus .40% (Prime rate is currently 4.00%). At the borrowers discretion, (before closing) they may elect to activate an optional collar, which would grant them an interest rate floor of 4.65% and ceiling of 7.70%. If the client elects to take the optional collars, the loan will therefore have a 1% prepayment penalty. Rate quotes are based on

Commitment Letter to Midlands Utility, Bush River Utility, and  
July 29, 2003

today's rate environment and assuming no substantial changes prior to closing, all efforts will be made to maintain the 305 basis point spread between stated floor and ceiling.

7. Repayment Terms: The loan is to be amortized over 15 years with a 5-year balloon. During the construction period, payments can be interest only for up to 12 months. Renewals for each ensuing 5-year period will be based upon a review of the current financial condition of the company from which ongoing cash flow for debt repayment can be documented.
8. Origination Fee: The bank shall charge an origination fee of \$12,500 to be paid at closing.
9. Prepayment: Bank shall charge a 1% prepayment premium should Borrower choose at any time to prepay part or all of the remaining principal balance due on the Loan. This prepayment penalty is contingent and active only upon acceptance of the interest rate floor and ceiling as stated in paragraph five of this document.
10. Documentation: At Loan closing, the Borrower shall execute a promissory note, Mortgage, Loan Agreement, and other related documents and instruments satisfactory to the Bank to evidence and secure the Loan. BB&T is to have separate legal counsel to ensure all appropriate documentation for debt obligation and lien perfection.
11. Survey and Flood Hazard Certification: Prior to the Loan closing, the Bank shall require the receipt of a satisfactory survey of the Collateral. The surveyor must provide certification that the improvements are not located in a special flood hazard area. The required surveys must evidence that any improvements, existing or to be constructed, are within the property boundary and that all structures remain in compliance with all setback and other requirements.
12. Title Insurance: Prior to the Loan closing, the Bank shall receive a standard mortgagee title insurance binder, and promptly after the Loan closing the Bank shall receive a standard mortgagee title insurance policy covering the mortgage satisfactory to the Bank as to coverage and amount. The binder and policy shall show no exceptions to coverage not acceptable to the Bank.
13. Hazard Insurance: At the Loan closing, the Borrower shall furnish Bank a hazard insurance policy for the replacement cost of the Collateral-naming Bank as mortgagee/loss payee. The insurance company issuing the policy must be acceptable to the Bank.

Commitment Letter to Midland Utility, Bush River Utility, at  
July 29, 2003

14. Appraisal: Prior to loan closing, the bank shall require a complete appraisal on the treatment facilities being erected. This appraisal shall be performed by a certified independent appraiser.
15. Environmental Site Assessment: Prior to the Loan closing, the bank shall require Phase 1 environmental assessments on the wastewater treatment facilities being financed.
16. Inspecting Representative: During construction, the Bank's inspecting representative will inspect the progress of construction.
17. Credit Qualifications: This Commitment is issued in reliance upon the accuracy and completeness of all information furnished by or for the Borrower and any co-signers or guarantors and is subject to the continued accuracy and completeness of all such information. The extension of credit by the Bank pursuant to this Commitment is subject to the condition precedent that the Borrower and any co-signers or guarantors shall after the date hereof maintain a financial condition acceptable to the Bank in its sole discretion. In addition, the Loan is conditioned upon there being no material adverse change which threatens the Borrower's ability to repay the Loan or pledge the Collateral to secure repayment.
18. Financial Information: While the Loan is outstanding, the Borrower shall provide the Bank with quarterly financial statements. Borrower must also provide the bank with annual personal tax returns and company financial statements within 120 days of the Borrower's fiscal year end.
19. Expense: All expenses associated with the Loan are to be paid by the Borrower. These expenses shall include, but are not limited to, the attorney's fees; appraisal fee; surveyor's fee; environmental engineer's fee, and all necessary recording fees. The bank shall allow borrower to use 2.5% (\$10,000) of the total loan proceeds to cover expenses associated with the loan closing.
20. Attorney's Opinion: The Bank shall require an approving legal opinion letter from Borrower's attorney, which must be acceptable to the Bank and Bank's counsel, stating, among others:
  - ... That the documents which evidence and secure the Loan are duly and validly executed and each constitutes a valid and legally binding obligation of the Borrower.
  - ... That the mortgage and other documents create a valid first lien on the interest of the Borrower in the Collateral.

Commitment Letter to Midlands Utility, Bush River Utility  
July 29, 2003

- .. That the Loan and its terms do not violate any laws including, but not limited to, any usury laws or similar laws of the jurisdiction where the Collateral is located.
- .. That there are no pending or threatened actions or suits against the Borrower that shall have a material adverse effect on its financial condition, or impair the ability of the Borrower to carry on its business substantially as now conducted.
21. Banking Relationship: The Borrower agrees to maintain its primary depository account(s) with the Bank.
22. Key Man Life Insurance: Both partners, Keith and Ken Parnell must maintain insurance policies of \$500,000 each, with BB&T listed as the beneficiary.
23. Personal Guaranty: Both Keith and Ken Parnell must guaranty the debt in full.
24. Documentation of all licenses: Borrower must furnish bank with copies of all operating licenses on the overall business as well as the plants being constructed (upon completion).
25. Documentation of Good standing: Borrower must furnish bank with letters of good standing or other documentation evidencing that Midlands Utility and related, remains in compliance with DHEC and the Public Service Commission.
26. Debt Service Coverage: Borrower must maintain a Debt Service Coverage ratio of at least 1.2. As noted in paragraph five of this document, any loan advances are contingent upon Midlands Utility and or related entities, acquiring authorization for the necessary rate increases to maintain the debt service coverage at the required level.
27. Conflicting Provisions: If any of the provisions of this commitment letter shall be construed to conflict with any terms or provisions contained in the Loan Documents, then the Loan Documents shall take priority.

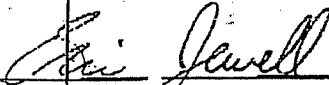
Commitment Letter to Midlands Utility, Bush River Unit  
July 29, 2003

This Commitment is open for your acceptance until the close of business on August 11<sup>th</sup>, 2003 (the "Expiration Date"), at which time this Commitment expires if not accepted and returned to the Bank. In addition, this Commitment shall expire and the Bank shall not be required to make the Loan if the Loan does not close by November 30<sup>th</sup>, 2003. To acknowledge your acceptance, please return a signed copy of this letter to my attention at the following address ~~or~~ before the Expiration Date:


Branch Banking and Trust Company  
309 Columbia Avenue  
Lexington, S.C. 29072


Very truly yours,

BRANCH BANKING AND TRUST COMPANY

By:   
Eric Jewell  
Title: Banking Officer  
Phone: (803) 359-1180

The foregoing terms and conditions are hereby accepted and agreed to this 8<sup>th</sup> day of August 2003

By:   
Keith Parnell

By:   
Ken Parnell

# BB&T

## LOAN AGREEMENT

Midlands Utility, Inc.  
9521421107

This Loan Agreement (the "Agreement") is made this 8th day of April, 2004 by and between BRANCH BANKING AND TRUST COMPANY OF SOUTH CAROLINA, a South Carolina banking corporation ("Bank"), and:

Midlands Utility, Inc, a South Carolina corporation ("Borrower"), having its chief executive office at 816 E Main St Lexington SC 29072.

Bush River Utilities, Inc, a South Carolina corporation ("Borrower"), having its chief executive office at 816 E Main St Lexington SC 29072.

Development Service, Inc, a South Carolina corporation ("Borrower"), having its chief executive office at 816 E Main St Lexington SC 29072.

Keith Parnell & Charles K. Parnell (individually "Guarantor" and collectively the "Guarantors").

The Borrower has applied to Bank for and the Bank has agreed to make, subject to the terms of this Agreement, the following loan(s) (hereinafter referred to, singularly or collectively, if more than one, as "Loan"):

**Term Loan ("Term Loan")** in the principal amount of \$2,021,400 for the purpose of constructing up to four new wastewater treatment facilities as approved by the public service commission, which shall be evidenced by the Borrower's Promissory Note dated of even date herewith payable in 18 (eighteen) consecutive monthly interest payments followed by 41 (forty-one) installments of principal and interest and shall bear interest at a rate as described more particularly in such note, the terms of which are incorporated herein by reference. The Term Loan shall mature on 4/08/2009, when the entire unpaid principal balance then outstanding plus accrued interest thereon shall be paid in full. **Prepayment Compensation:** For any prepayment of the Loan the Bank shall be compensated as follows: 1% of the amount of principal prepayment.

### Section 1 Conditions Precedent

The Bank shall not be obligated to make any disbursement of Loan proceeds until all of the following conditions have been satisfied by proper evidence, execution, and/or delivery to the Bank of the following items in addition to this Agreement, all in form and substance satisfactory to the Bank and the Bank's counsel in their sole discretion:

**Note(s):** The Note(s) evidencing the Loans(s) duly executed by the Borrower.

**Mortgage(s):** The Mortgage(s) of Real Estate in which Borrower, or other owner thereof, shall grant to Bank a mortgage lien on the specified real property and improvements thereon ("Mortgaged Property").

**Title Opinion:** A favorable opinion of title from legal counsel acceptable to the Bank certifying that the Borrower, or other owner thereof, has good and marketable fee simple title to the Mortgaged Property and that the Mortgage(s) granted to the Bank constitutes a first priority lien thereon without exceptions, except as are acceptable to the Bank and the Bank's counsel.

**Survey:** A certified copy of a recent survey of the Mortgaged Property prepared by a registered land surveyor or a civil engineer.

**Environmental Audit Report:** A favorable "Phase I" unedited environmental audit (or comparable examination) covering the Mortgaged Property from an independent environmental engineering firm satisfactory to Bank which reflects that no hazardous waste, toxic substances, or other hazardous materials have contaminated the Mortgaged Property or, if the Mortgaged Property has been so contaminated, that it has been satisfactorily cleaned up in accordance with all Environmental Laws. The Bank shall be fully authorized to discuss all aspects of the audit with the engineering firm.

**Control Agreement:** A Control Agreement pertaining to Deposit Accounts, Letter-of-Credit Rights and/or Electronic Chattel-Paper, as required in connection with the Security Agreement(s).

**Authorization and Certificate:** An Authorization and Certificate executed by each Debtor under which such Debtor authorizes Bank to file a UCC Financing Statement describing collateral owned by such Debtor.

**Commitment Fee:** A commitment fee (or balance thereof) of \$12,500 payable to the Bank on the date of execution of the Loan Documents.

**Corporate Resolution:** A Corporate Resolution duly adopted by the Board of Directors of the Borrower authorizing the execution, delivery, and performance of the Loan Documents on or in a form provided by or acceptable to Bank.

**Articles of Incorporation:** A copy of the Articles of Incorporation and all other charter documents of the Borrower, all filed with and certified by the Secretary of State of the State of the Borrower's incorporation.

**By-Laws:** A copy of the By-Laws of the Borrower, certified by the Secretary of the Borrower as to their completeness and accuracy.

**Certificate of Incumbency:** A certificate of the Secretary of the Borrower certifying the names and true signatures of the officers of the Borrower authorized to sign the Loan Documents.

**Certificate of Existence:** A certification of the Secretary of State (or other government authority) of the State of the Borrower's Incorporation or Organization as to the existence or good standing of the Borrower and its charter documents on file.

**Opinion of Counsel:** An opinion of counsel for the Borrower satisfactory to the Bank and the Bank's counsel.

**Guaranty:** Guaranty Agreement(s) duly executed by the Guarantor(s).

**Assignment of Life Insurance Policy(ies):** An assignment of life insurance policy(ies) as collateral on the life of Keith Parnell and Charles K. Parnell in the amount of \$500,000 each by an insurance company acceptable to the Bank.

**Securities Account Pledge and Security Agreement(s):** A Securities Account Pledge and Security Agreement for each pledged securities account maintained with an independent broker or other securities intermediary.

**Securities Account Control Agreement(s):** A Control Agreement for each pledged securities account maintained with an independent broker, or securities intermediary.

**Appraisal(s):** Two (2) copies of an appraisal ordered by the Bank of the estimated market value of the real and/or personal property offered as collateral for the Loan(s) referenced herein. The appraisal(s) must be addressed to the Bank and must conform to the Uniform Standards of Professional Appraisal Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation. Any deviation from the USPAP must be explained in the appraisal(s). The appraiser(s) must be licensed and/or certified if required by applicable Federal Deposit Insurance Corporation regulations or state laws.

**Additional Documents:** Receipt by the Bank of other approvals, opinions, or documents as the Bank may reasonably request. With regard to disbursements for improvements on the 2.36 acreage, "Raintree Track", the issuance of a final title insurance policy without exceptions for unrecorded plats.

The Borrower and Guarantor(s) represent and warrant to Bank that:

2.01. **Financial Statements.** The balance sheet of the Borrower and its subsidiaries, if any, and the related Statements of Income and Retained Earnings of the Borrower and its subsidiaries, the accompanying footnotes together with the accountant's opinion thereon, and all other financial information previously furnished to the Bank, are true and correct and fairly reflect the financial condition of the Borrower and its subsidiaries as of the dates thereof, including all contingent liabilities of every type, and the financial condition of the Borrower and its subsidiaries as stated

# BB&T

## LOAN AGREEMENT

therein has not changed materially and adversely since the date thereof. Each Guarantor further represents and warrants that all financial statements provided by such Guarantor to Bank concerning such Guarantor's financial condition are true and correct and fairly represent such Guarantor's financial condition as of the dates thereof.

**2.02. Name, Capacity and Standing:** The Borrower's exact legal name is correctly stated in the initial paragraph of the Agreement. If the Borrower and/or any Guarantor is a corporation, general partnership, limited partnership, limited liability partnership, or limited liability company, each warrants and represents that it is duly organized and validly existing under the laws of its respective state of incorporation or organization; that it and/or its subsidiaries, if any, are duly qualified and in good standing in every other state in which the nature of their business shall require such qualification, and are each duly authorized by their board of directors, general partners or member/manager(s), respectively, to enter into and perform the obligations under the Loan Documents.

**2.03. No Violation of Other Agreements.** The execution of the Loan Documents, and the performance by the Borrower, by any and all pledgors (whether the Borrower or other owners of collateral property securing payment of the Loan (hereinafter sometimes referred to as the "Pledgor")) or by the Guarantor(s) thereunder will not violate any provision, as applicable, of its articles of incorporation, by-laws, articles of organization, operating agreement, agreement of partnership, limited partnership or limited liability partnership, or, of any law, other agreement, indenture, note, or other instrument binding upon the Borrower, Pledgor or Guarantor(s), or give cause for the acceleration of any of the respective obligations of the Borrower or Guarantor(s).

**2.04. Authority.** All authority from and approval by any federal, state, or local governmental body, commission or agency necessary to the making, validity, or enforceability of this Agreement and the other Loan Documents has been obtained.

**2.05. Asset Ownership.** The Borrower and each Guarantor have good and marketable title to all of the properties and assets reflected on the balance sheets and financial statements furnished to the Bank, and all such properties and assets are free and clear of mortgages, deeds of trust, pledges, liens, and all other encumbrances except as otherwise disclosed by such financial statements. In addition, each other owner of collateral has good and marketable title to such collateral, free and clear of any liens, security interests and encumbrances, except as otherwise disclosed to Bank.

**2.06. Discharge of Liens and Taxes.** The Borrower and its subsidiaries, if any, and each Guarantor have filed, paid, and/or discharged all taxes or other claims which may become a lien on any of their respective properties or assets, excepting to the extent that such items are being appropriately contested in good faith and for which an adequate reserve (in an amount acceptable to Bank) for the payment thereof is being maintained.

**2.07. Regulation U.** None of the Loan proceeds shall be used directly or indirectly for the purpose of purchasing or carrying any margin stock in violation of the provisions of Regulation U of the Board of Governors of the Federal Reserve System.

**2.08. ERISA.** Each employee benefit plan, as defined by the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), maintained by the Borrower or by any subsidiary of the Borrower or Guarantor(s) meets, as of the date hereof, the minimum funding standards of Section 302 of ERISA, all applicable requirements of ERISA and of the Internal Revenue Code of 1986, as amended, and no "Reportable Event" nor "Prohibited Transaction" (as defined by ERISA) has occurred with respect to any such plan.

**2.09. Litigation.** There is no claim, action, suit or proceeding pending, threatened or reasonably anticipated before any court, commission, administrative agency, whether State or Federal, or arbitration which will materially adversely affect the financial condition, operations, properties, or business of the Borrower or its subsidiaries, if any, or the Guarantor(s), or the ability of the Borrower or the Guarantor(s) to perform their obligations under the Loan Documents.

**2.10. Other Agreements.** The representations and warranties made by Borrower to Bank in the other Loan Documents are true and correct in all respects on the date hereof.

**2.11. Binding and Enforceable.** The Loan Documents, when executed, shall constitute valid and binding obligations of the Borrower and Guarantors respectively, the execution of such Loan Documents has been duly authorized by the parties thereto, and are enforceable in accordance with their terms, except as may be limited by bankruptcy, insolvency, moratorium, or similar laws affecting creditors' rights generally.

**2.12. Commercial Purpose.** The Loan(s) are not "consumer transactions", as defined in the South Carolina Uniform Commercial Code, and none of the collateral was or will be purchased or held primarily for personal, family or household purposes.

### Section 3 Affirmative Covenants

The Borrower covenants and agrees that from the date hereof and until payment in full of all indebtedness and performance of all obligations owed under the Loan Documents, Borrower shall:

**3.01. Maintain Existence and Current Legal Form of Business.** (a) Maintain its existence and good standing in the state of its incorporation or organization, (b) maintain its current legal form of business indicated above, and, (c) as applicable, qualify and remain qualified as a foreign corporation, general partnership, limited partnership, limited liability partnership or limited liability company in each jurisdiction in which such qualification is required.

**3.02. Maintain Records.** Keep adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied, reflecting all financial transactions of the Borrower.

**3.03. Maintain Properties.** Maintain, keep, and preserve all of its properties (tangible and intangible) including the collateral necessary or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted.

**3.04. Conduct of Business.** Continue to engage in an efficient, prudent, and economical manner in a business of the same general type as now conducted.

**3.05. Maintain Insurance.** Maintain insurance with financially sound and reputable insurance companies or associations in such amounts and covering such risks as are usually carried by companies engaged in the same or a similar business, and business interruption insurance if required by Bank, which insurance may provide for reasonable deductible(s). The Bank shall be named as loss payee (Long Form) on all policies which apply to the Bank's collateral, and the Borrower shall deliver certificates of insurance at closing evidencing same. All such insurance policies shall provide, and the certificates shall state, that no policy will be terminated without 20 days prior written notice to Bank.

**3.06. Comply With Laws.** Comply in all respects with all applicable laws, rules, regulations, and orders including, without limitation, paying before the delinquency of all taxes, assessments, and governmental charges imposed upon it or upon its property, and all Environmental Laws.

**3.07. Right of Inspection.** Permit the officers and authorized agents of the Bank, at any reasonable time or times in the Bank's sole discretion, to examine and make copies of the records and books of account of, to visit the properties of the Borrower, and to discuss such matters with any officers, directors, managers, members or partners, limited or general of the Borrower, and the Borrower's independent accountant as the Bank deems necessary and proper.

**3.08. Reporting Requirements.** Furnish to the Bank:

**Quarterly Financial Statements:** As soon as available and not more than 60 (sixty) days after the end of each quarter, balance sheets, statements of income, cash flow, and retained earnings for the period ended and a statement of changes in the financial position, all in reasonable detail, and all prepared in accordance with GAAP consistently applied and certified as true and correct by an officer, general partner or manager (or member(s)) of the Borrower, as appropriate.

**Annual Financial Statements:** As soon as available and not more than 120 (one hundred and twenty) days after the end of each fiscal year, balance sheets, statements of income, and retained earnings for the period ended and a statement of changes in the financial position, all in reasonable detail, and all prepared in accordance with GAAP consistently applied.

**Notice of Litigation:** Promptly after the receipt by the Borrower, or by any Guarantor of which Borrower has knowledge, of notice or complaint of any action, suit, and proceeding before any court or administrative agency of any type which, if determined adversely, could have a material adverse effect on the financial condition, properties, or operations of the Borrower or Guarantor, as appropriate.

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## LOAN AGREEMENT

**Tax Returns:** As soon as available each year, complete copies (including all schedules) of all state and federal tax returns filed by Borrower.

**Notice of Default:** Promptly upon discovery or knowledge thereof, notice of the existence of any event of default under this Agreement or any other Loan Documents.

**Other Information:** Such other information as the Bank may from time to time reasonably request.

3.09. **Deposit Accounts.** Maintain substantially all of its demand deposit/operating accounts with the Bank.

3.10. **Affirmative Covenants from other Loan Documents.** All affirmative covenants contained in any Mortgage, Security Agreement, Assignment of Leases and Rents, or other security document executed by the Borrower which are described in paragraph 2 hereof are hereby incorporated by reference herein.

### Section 4 Guarantor(s) Covenants

Each Guarantor covenants and agrees that from the date hereof and until payment in full of all indebtedness and performance of all obligations owed under the Loan Documents, Guarantor shall:

4.01. **Maintain Existence and Current Legal Form of Business.** If Guarantor is a corporation, partnership, limited partnership, limited liability partnership or limited liability company, (a) maintain its existence and good standing in the state of its incorporation or organization, (b) maintain its current legal form of business as shown on the guaranty agreement provided by Guarantor to Bank in connection with the Loan, and (c) without the Bank's prior written consent, change Guarantor's name, or enter into any merger, consolidation, reorganization or exchange of stock, ownership interests or assets, and (d) as applicable, qualify and remain qualified as a foreign corporation, general partnership, limited partnership, limited liability partnership or limited liability company in each jurisdiction in which such qualification is required.

4.02. **Maintain Properties.** Not, without the prior written consent of Bank, sell, transfer or otherwise dispose of all or substantially all of Guarantor's properties (tangible and intangible), except in the ordinary course of business.

4.03. **Comply With Laws.** Comply in all respects with all applicable laws, rules, regulations, and orders including, without limitation, paying before the delinquency of all taxes, assessments, and governmental charges imposed or assessed upon Guarantor or upon Guarantor's property, and all Environmental Laws.

4.04. **Reporting Requirements.** Furnish to the Bank:

**Annual Financial Statement(s):** If Guarantor is an individual, a personal financial statement promptly after the anniversary date of the Loan, on form provided by the Bank and in such reasonable detail as the Bank may require; or, if Guarantor is a corporation, general partnership, limited partnership, limited liability partnership or limited liability company, as soon as available and not more than 120 (one hundred and twenty) days after the end of each fiscal year of Guarantor, balance sheets, statements of income, and retained earnings for the period ended and a statement of changes in financial position, on form(s) to be provided by the Bank, all in reasonable detail, and all prepared in accordance with GAAP consistently applied.

**Notice of Litigation:** Promptly after the receipt by Guarantor, or by Borrower of which Guarantor has knowledge, of notice of any action, suit, and proceeding before any court or governmental agency of any type which, if determined adversely, could have a material adverse effect on the financial condition, properties, or operations of the Guarantor or Borrower, as appropriate.

4.05. **Transfer of Ownership.** Not, without the prior written consent of the Bank: If Guarantor is a corporation, (a) issue, transfer or sell any new class of stock, or (b) issue, transfer or sell, in the aggregate, from its treasury stock and/or currently authorized but unissued shares of any class of stock, more than 10% of the total number of all such issued and outstanding shares as of the date of this Agreement; or, if Borrower is a general partnership, limited partnership, limited liability partnership or limited liability company, issue, transfer or sell any interest in Borrower.

4.06. **Tax Returns:** As soon as available each year, furnish complete copies (including all schedules) of all state and federal tax returns filed by Guarantor.

4.07. **Other Information:** Furnish such other information as the Bank may from time to time reasonably request.

### Section 5 Financial Covenants

The Borrower covenants and agrees that from the date hereof until payment in full of all indebtedness and the performance of all obligations under the Loan Documents, the Borrower shall at all times maintain the following financial covenants and ratios all in accordance with GAAP unless otherwise specified:

5.01. **Debt Service Coverage.** Borrower must maintain a Debt Service Coverage ratio of at least 1.20.

5.02. **Advances Proceeds** from the loan designated for improvements shall only be advanced after the Borrower has obtained approval for the rate increase from the Public Service Commission, that will allow the Borrower's income to support the debt at the required coverage rate (1.20) as stated above in section 5.01.

### Section 6 Negative Covenants

The Borrower covenants and agrees that from the date hereof and until payment in full of all indebtedness and performance of all obligations under the Loan Documents, the Borrower shall not, without the prior written consent of the Bank:

6.01. **Liens.** Create, incur, assume, or suffer to exist any lien upon or with respect to any of Borrower's properties, or the properties of any Pledgor securing payment of the Loan, now owned or hereafter acquired, except:

- (a) Liens and security interests in favor of the Bank;
- (b) Liens for taxes not yet due and payable or otherwise being contested in good faith and for which appropriate reserves are maintained;
- (c) Other liens imposed by law not yet due and payable, or otherwise being contested in good faith and for which appropriate reserves are maintained;
- (d) Liens on N/A securing an obligation to N/A not to exceed \$ N/A, or described on Schedule "N/A" attached hereto;
- (e) purchase money security interests on any property hereafter acquired, provided that such lien shall attach only to the property acquired.

6.02. **Debt.** Create, incur, assume, or suffer to exist any debt, except:

- (a) Debt to the Bank;
- (b) Debt outstanding on the date hereof and shown on the most recent financial statements submitted to the Bank;
- (c) Accounts payable to trade creditors incurred in the ordinary course of business;
- (d) Debt secured by purchase money security interests as outlined above in Section 6.01 (e);
- (e) Additional debt not to exceed \$ N/A in the aggregate at any time.

6.03. **Capital Expenditures.** Expenditures for fixed assets in any fiscal year shall not exceed in the aggregate the sum of \$ N/A.

6.04. **Change of Legal Form of Business; Purchase of Assets.** Change Borrower's name or the legal form of Borrower's business as shown above, whether by merger, consolidation, conversion or otherwise, and Borrower shall not purchase all or substantially all of the assets or business of any Person.

6.05. **Leases.** Create, incur, assume, or suffer to exist any leases, except:

- (a) Leases outstanding on the date hereof and showing on the most recent financial statement submitted to the Bank;
- (b) Operating Leases for machinery and equipment which do not in the aggregate require payments in excess of \$ N/A in any fiscal year of the Borrower.

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## LOAN AGREEMENT

- 6.06. **Dividends or Distributions; Acquisition of Capital Stock or Other Ownership Interests.** Declare or pay any dividends or distributions of any kind, or purchase or redeem, retire, or otherwise acquire any of Borrower's capital stock or other ownership interests, now or hereafter outstanding, in excess of \$ N/A in any fiscal year of the Borrower.
- 6.07. **Salaries.** Salaries and any other cash compensation to owners/officers/partners/managers shall be limited as follows: N/A.
- 6.08. **Guaranties.** Assume, guarantee, endorse, or otherwise be or become directly or contingently liable for obligations of any Person, except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business.
- 6.09. **Loans.** Loans to directors, officers, partners, members, shareholders, subsidiaries and affiliates shall be limited as follows: N/A.
- 6.10. **Disposition of Assets.** Sell, lease, or otherwise dispose of any of its assets or properties except in the ordinary and usual course of its business.
- 6.11. **Transfer of Ownership.** If Borrower is a corporation, (a) issue, transfer or sell any new class of stock, or (b) issue, transfer or sell, in the aggregate, from its treasury stock and/or currently authorized but unissued shares of any class of stock, more than 10% of the total number of all such issued and outstanding shares as of the date of this Agreement. If Borrower is a general partnership, limited partnership, limited liability partnership or limited liability company, issue, transfer or sell any interest in Borrower.
- 6.12. **Negative Covenants from other Loan Documents.** All negative covenants contained in any Deed of Trust, Security Agreement, Assignment of Leases or Rents, or other security document executed by the Borrower which are described in paragraph 2 hereof are hereby incorporated by reference herein.
- 6.13.

### Section 7 Hazardous Materials and Compliance with Environmental Laws

7.01. **Investigation.** Borrower hereby certifies that it has exercised due diligence to ascertain whether its real property, including without limitation the Mortgaged Property, is or has been affected by the presence of asbestos, oil, petroleum or other hydrocarbons, urea formaldehyde, PCBs, hazardous or nuclear waste, toxic chemicals and substances, or other hazardous materials (collectively, "Hazardous Materials"), as defined in applicable Environmental Laws. Borrower represents and warrants that there are no such Hazardous Materials contaminating its real property, nor have any such materials been released on or stored on or improperly disposed of on its real property during its ownership, occupancy or operation thereof. Borrower hereby agrees that, except in strict compliance with applicable Environmental Laws, it shall not knowingly permit any release, storage or contamination as long as any indebtedness or obligations to Bank under the Loan Documents remains unpaid or unfulfilled. In addition, Borrower does not have or use any underground storage tanks on any of its real property, including the Mortgaged Property which are not registered with the appropriate Federal and/or State agencies and which are not properly equipped and maintained in accordance with all Environmental Laws. If requested by Bank, Borrower shall provide Bank with all necessary and reasonable assistance required for purposes of determining the existence of Hazardous Materials on the Mortgaged Property, including allowing Bank access to the Mortgaged Property, and access to Borrower's employees having knowledge of, and to files and records within Borrower's control relating to the existence, storage, or release of Hazardous Materials on the Mortgaged Property.

7.02. **Compliance.** Borrower agrees to comply with all applicable Environmental Laws, including, without limitation, all those relating to Hazardous Materials. Borrower further agrees to provide Bank, and all appropriate Federal and State authorities, with immediate notice in writing of any release of Hazardous Materials on the Mortgaged Property and to pursue diligently to completion all appropriate and/or required remedial action in the event of such release.

7.03. **Remedial Action.** Bank shall have the right, but not the obligation, to undertake all or any part of such remedial action in the event of a release of Hazardous Materials on the Mortgaged Property and to add any expenditures so made to the principal indebtedness secured by the Mortgage. Borrower agrees to indemnify and hold Bank harmless from any and all loss or liability arising out of any violation of the representations, covenants, and obligations contained in this Section 7, or resulting from the recording of the Mortgage.

### Section 8 Events of Default

The following shall be "Events of Default" by Borrower or any Guarantor:

- 8.01. The failure to make prompt payment of any installment of principal or interest on any of the Note(s) when due or payable.
- 8.02. Should any representation or warranty made in the Loan Documents prove to be false or misleading in any material respect.
- 8.03. Should any report, certificate, financial statement, or other document furnished prior to the execution of or pursuant to the terms of this Agreement prove to be false or misleading in any material respect.
- 8.04. Should the Borrower, any Guarantor default on the performance of any other obligation of indebtedness when due or in the performance of any obligation incurred in connection with money borrowed.
- 8.05. Should the Borrower, any Guarantor or any Pledgor breach any covenant, condition, or agreement made under any of the Loan Documents.
- 8.06. Should a custodian be appointed for or take possession of any or all of the assets of the Borrower or any Guarantor, or should the Borrower or any Guarantor either voluntarily or involuntarily become subject to any insolvency proceeding, including becoming a debtor under the United States Bankruptcy Code, any proceeding to dissolve the Borrower or any Guarantor, any proceeding to have a receiver appointed, or should the Borrower or any Guarantor make an assignment for the benefit of creditors, or should there be an attachment, execution, or other judicial seizure of all or any portion of the Borrower's or any Guarantor's assets, including an action or proceeding to seize any funds on deposit with the Bank, and such seizure is not discharged within 30 days.
- 8.07. Should final judgment for the payment of money be rendered against the Borrower or any Guarantor which is not covered by insurance and shall remain undischarged for a period of 30 days unless such judgment or execution thereon be effectively stayed.
- 8.08. Upon the death of, or termination of existence of, or dissolution of, any Borrower, Pledgor or Guarantor.
- 8.09. Should the Bank in good faith deem itself, its liens and security interests, if any, or any debt thereunder unsafe or insecure, or should the Bank believe in good faith that the prospect of payment of any debt or other performance by the Borrower or any Guarantor is impaired.
- 8.10. Should any lien or security interest granted to Bank to secure payment of the Note(s) terminate, fail for any reason to have the priority agreed to by Bank on the date granted, or become unperfected or invalid for any reason.
- 8.11..

### Section 9 Remedies Upon Default

Upon the occurrence of any of the above listed Events of Default, the Bank may at any time thereafter, at its option, take any or all of the following actions, at the same or at different times:

- 9.01. Declare the balance(s) of the Note(s) to be immediately due and payable, both as to principal and interest, without presentment, demand, protest, or notice of any kind, all of which are hereby expressly waived by Borrower and, each Guarantor, and such balance(s) shall accrue interest at the Default Rate as provided herein until paid in full;
- 9.02. Require the Borrower or Guarantor(s) to pledge additional collateral to the Bank from the Borrower's or any Guarantor's assets and properties, the acceptability and sufficiency of such collateral to be determined in the Bank's sole discretion;
- 9.03. Take immediate possession of and foreclose upon any or all collateral which may be granted to the Bank as security for the indebtedness and obligations of Borrower or any Guarantor under the Loan Documents;
- 9.04. Exercise any and all other rights and remedies available to the Bank under the terms of the Loan Documents and applicable law, including the South Carolina Uniform Commercial Code;

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## LOAN AGREEMENT

9.05. Any obligation of the Bank to advance funds to the Borrower or any other Person under the terms of under the Note(s) and all other obligations, if any, of the Bank under the Loan Documents shall immediately cease and terminate unless and until Bank shall reinstate such obligation in writing.

### Section 10 Miscellaneous Provisions

#### 10.01. Definitions.

"Availability" shall mean the lesser of (i) \$ N/A or (ii) the Collateral Loan Value shown on the Loan Base Report furnished by Borrower to Bank on or before the N/A day of each N/A as long as this Agreement shall remain in force. The percentages of acceptable collateral, as defined by Bank, which will be used to determine the Collateral Loan Value, shall be the following (unless otherwise set forth in Schedule DD and/or DD-IFA hereto): Eligible Inventory - N/A %; Eligible Accounts - N/A %; Insured Foreign Accounts - N/A %.

"Default Rate" shall mean a rate of interest equal to Bank's Prime Rate plus five percent (5%) per annum (not to exceed the legal maximum rate) from and after the date of an Event of Default hereunder which shall apply, in the Bank's sole discretion, to all sums owing, including principal and interest, on such date.

"Environmental Laws" shall mean all federal and state laws and regulations which affect or may affect the Mortgaged Property, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. Sections 1251 et seq.), the Clean Air Act (42 U.S.C. Section 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), the Pollution Control Act (1976 S.C. Code 48-1-10 et seq.), the Erosion and Sediment Reduction Act of 1983 (1976 S.C. Code 48-18-10 et seq.), the South Carolina Mining Act (1976 S.C. Code 48-19-10 et seq.), as such laws or regulations have been amended or may be amended.

"Loan Documents" shall mean this Agreement including any schedule attached hereto, the Note(s), the Deed(s) of Trust, the Mortgage(s), the Security Agreement(s), the Assignment(s) of Leases and Rents, all UCC Financing Statements, the Guaranty Agreement(s), and all other documents, certificates, and instruments executed in connection therewith, and all renewals, extensions, modifications, substitutions, and replacements thereto and therefore.

"Person" shall mean an individual, partnership, corporation, trust, unincorporated organization, limited liability company, limited liability partnership, association, joint venture, or a government agency or political subdivision thereof.

"GAAP" shall mean generally accepted accounting principles as established by the Financial Accounting Standards Board or the American Institute of Certified Public Accountants, as amended and supplemented from time to time.

"Prime Rate" shall mean the rate of interest per annum announced by the Bank from time to time and adopted as its Prime Rate, which is one of several rate indexes employed by the Bank when extending credit, and may not necessarily be the Bank's lowest lending rate.

10.02. Non-impairment. If any one or more provisions contained in the Loan Documents shall be held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained therein shall not in any way be affected or impaired thereby and shall otherwise remain in full force and effect.

10.03. Applicable Law. The Loan Documents shall be construed in accordance with and governed by the laws of the State of South Carolina.

10.04. Waiver. Neither the failure or any delay on the part of the Bank in exercising any right, power or privilege granted in the Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise of any other right, power, or privilege which may be provided by law.

10.05. Modification. No modification, amendment, or waiver of any provision of any of the Loan Documents shall be effective unless in writing and signed by the Borrower and Bank.

10.06. Payment Amount Adjustment. In the event that any Loan(s) referenced herein has a variable (floating) interest rate and the interest rate increases, Bank, at its sole discretion, may at any time adjust the Borrower's payment amount(s) to prevent the amount of interest accrued in a given period to exceed the periodic payment amount or to cause the Loan(s) to be repaid within the same period of time as originally agreed upon.

10.07. Stamps and Fees. The Borrower shall pay all federal or state stamps, taxes, or other fees or charges, if any are payable or are determined to be payable by reason of the execution, delivery, or issuance of the Loan Documents or any security granted to the Bank; and the Borrower and Guarantor agree to indemnify and hold harmless the Bank against any and all liability in respect thereof.

10.08. Attorneys' Fees. In the event the Borrower or any Pledgor or Guarantor shall default in any of its obligations hereunder and the Bank believes it necessary to employ an attorney to assist in the enforcement or collection of the indebtedness of the Borrower to the Bank, to enforce the terms and provisions of the Loan Documents, to modify the Loan Documents, or in the event the Bank voluntarily or otherwise should become a party to any suit or legal proceeding (including a proceeding conducted under the Bankruptcy Code), the Borrower and Guarantors agree to pay the reasonable attorneys' fees of the Bank and all related costs of collection or enforcement that may be incurred by the Bank. The Borrower and Guarantor shall be liable for such attorneys' fees and costs whether or not any suit or proceeding is actually commenced.

10.09. Bank Making Required Payments. In the event Borrower shall fail to maintain insurance, pay taxes or assessments, costs and expenses which Borrower is, under any of the terms hereof or of any Loan Documents, required to pay, or fail to keep any of the properties and assets constituting collateral free from new security interests, liens, or encumbrances, except as permitted herein, Bank may at its election make expenditures for any or all such purposes and the amounts expended together with interest thereon at the Default Rate, shall become immediately due and payable to Bank, and shall have benefit of and be secured by the collateral; provided, however, the Bank shall be under no duty or obligation to make any such payments or expenditures.

10.10. Right of Offset. Any indebtedness owing from Bank to Borrower may be set off and applied by Bank on any indebtedness or liability of Borrower to Bank, at any time and from time to time after maturity, whether by acceleration or otherwise, and without demand or notice to Borrower. Bank may sell participations in or make assignments of any Loan made under this Agreement, and Borrower agrees that any such participant or assignee shall have the same right of setoff as is granted to the Bank herein.

10.11. UCC Authorization. Borrower authorizes Bank to file such UCC Financing Statements describing the collateral in any location deemed necessary and appropriate by Bank.

10.12. Modification and Renewal Fees. Bank may, at its option, charge any fees for modification, renewal, extension, or amendment of any terms of the Note(s) permitted by law.

10.13. Conflicting Provisions. If provisions of this Agreement shall conflict with any terms or provisions of any of the Note(s) or Security Agreement(s), the provisions of such Note(s) or Security Agreement(s), as appropriate, shall take priority over any provisions in this Agreement.

10.14. Notices. Any notice permitted or required by the provisions of this Agreement shall be deemed to have been given when delivered in writing to the City Executive or any Vice President of the Bank at its offices in Lexington, South Carolina, and to the President of the Borrower at its offices in Lexington, South Carolina when sent by certified mail and return receipt requested.

10.15. Consent to Jurisdiction. Borrower hereby irrevocably agrees that any legal action or proceeding arising out of or relating to this Agreement may be instituted in the Superior Court in Greenville County, South Carolina, or the United States District Court for South Carolina Greenville Division, or in such other appropriate court and venue as Bank may choose in its sole discretion. Borrower consents to the jurisdiction of such courts and waives any objection relating to the basis for personal or in rem jurisdiction or to venue which Borrower may now or hereafter have in any such legal action or proceedings.

10.16. Counterparts. This Agreement may be executed by one or more parties on any number of separate counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

10.17. Entire Agreement. The Loan Documents embody the entire agreement between Borrower and Bank with respect to the Loans, and there are no oral or parol agreements existing between Bank and Borrower with respect to the Loans which are not expressly set forth in the Loan Documents.

**BB&T**  
**LOAN AGREEMENT**

[SIGNATURES ON FOLLOWING PAGE]

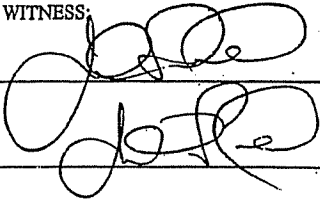
**BB&T**  
**LOAN AGREEMENT**

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the Bank, Borrower and Guarantor(s) have caused this Agreement to be duly executed under seal all as of the date first above written.

**Borrower is a Corporation:**

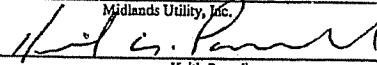
WITNESS:



Borrower's Name

Midlands Utility, Inc.

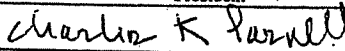
By:



Title:

Keith Parnell  
President

By:

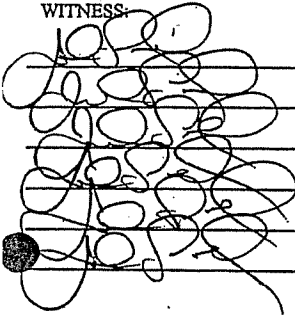


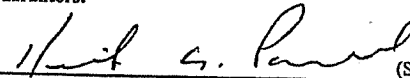

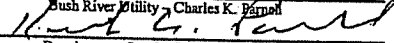
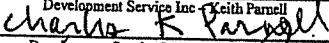
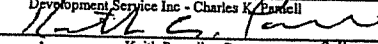
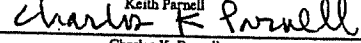
Title:

Charles K. Parnell  
Vice-President

**Additional Co-Borrowers or Guarantors:**

WITNESS:



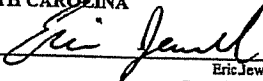
 (SEAL)  
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 (SEAL)  
Bush River Utility - Charles K. Parnell  
 (SEAL)  
Development Service Inc. - Keith Parnell  
 (SEAL)  
Development Service Inc. - Charles K. Parnell  
 (SEAL)  
Keith Parnell  
 (SEAL)  
Charles K. Parnell

WITNESS:



**BRANCH BANKING AND TRUST COMPANY  
OF SOUTH CAROLINA**

By:



Title:

Eric Jewell  
Banking Officer

Account Number: 9521421107  
Address: 16 EAST MAIN STREET  
LEXINGTON, SC 29072-0000

BB&T LEXINGTON  
of South Carolina Date: April 8, 2004

### PROMISSORY NOTE

BORROWER(S) REPRESENTS HERewith THAT THE LOAN EVIDENCED HEREBY IS BEING OBTAINED FOR BUSINESS/COMMERCIAL PURPOSES. For value received, the undersigned, jointly and severally, if more than one, promises to pay to BRANCH BANKING AND TRUST COMPANY OF SOUTH CAROLINA, a South Carolina banking corporation (the "Bank"), or order, at said bank at any of its offices in the above referenced city (or such other place or places that may be hereafter designated by Bank), the sum of

TWO MILLION TWENTY-ONE THOUSAND FOUR HUNDRED DOLLARS & 00/100

Dollars (\$ 2,021,400.00 ), in immediately available coin or currency of the United States of America. ☒ Borrower shall pay a prepayment penalty as set forth in the Prepayment Penalty Addendum attached hereto.

Interest shall accrue from the date hereof on the unpaid balance outstanding from time to time at the:

- ☐ Fixed rate of \_\_\_\_\_ % per annum.
- ☒ Variable rate of the Bank's Prime Rate plus 0.400 % per annum to be adjusted Daily as the Bank's Prime Rate changes. If checked here ☒ , the interest rate will not exceed a(n) ☒ fixed ☐ average maximum rate of 7.700 % or a ☐ floating maximum rate of the greater of \_\_\_\_\_ % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of 4.650 %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made: ☐ when Note is repaid in full by Borrower ☐ annually beginning on \_\_\_\_\_
- ☐ Fixed rate of \_\_\_\_\_ % per annum through \_\_\_\_\_ which automatically converts on \_\_\_\_\_ to a variable rate equal to the Bank's Prime Rate plus \_\_\_\_\_ % per annum which shall be adjusted \_\_\_\_\_ as such Prime Rate changes.

#### Principal and Interest is payable as follows

- ☐ Principal (plus any accrued interest not otherwise scheduled herein) } is due in full at maturity on \_\_\_\_\_
- ☐ Principal plus accrued interest } commencing on 11/15/2005
- ☒ Payable in consecutive Monthly installments of ☐ Principal ☒ Principal and Interest } commencing on 11/15/2005
- and continued on the same day of each calendar period thereafter, in 41 equal payments of \$ 16,335.00, with one final payment of all remaining principal and accrued interest due on 04/08/2009
- ☐ ChoiceLine Payment Option: 2% of outstanding balance is payable monthly commencing on \_\_\_\_\_ and continuing on the same day of each calendar period thereafter, with one final payment of all remaining principal and accrued interest due on \_\_\_\_\_
- ☒ Accrued interest is payable Monthly commencing on May 15, 2004 and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on October 15, 2005
- ☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder \_\_\_\_\_ on \_\_\_\_\_ and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than \_\_\_\_\_ months from the date of this Note. Borrower understands the payment may increase if interest rates increase.
- ☐ Prior to an event of default, Borrower may borrow, repay, and reborrow hereunder pursuant to the terms of the Loan Agreement, hereinafter defined.
- ☐ Borrower hereby authorizes Bank to automatically debit from its demand, deposit, or savings account(s) with Bank, any payment(s) due under this Note on the date(s) due.

The undersigned shall pay to Bank a late fee in the amount of five percent (5%) of any installment past due for fifteen (15) or more days. When any installment payment is past due for fifteen (15) or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to nonsufficient funds.

All interest shall be computed and charged for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased, or additional supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion), in such amounts and such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as the interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in the variable interest rate; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount.

This Note is given by the undersigned in connection with the following agreements (if any) between the undersigned and the Bank:

Mortgage(s) / Deed of Trust(s) granted in favor of Bank as mortgagee / beneficiary:

- ☒ dated 04/08/2004 in the maximum principal amount of \$ 2,021,400.00  
granted by BUSH RIVER UTILITIES, INC
- ☒ dated 04/08/2004 in the maximum principal amount of \$ 2,021,400.00  
granted by MIDLANDS UTILITY, INC



Security Agreement(s) granting a security interest to Bank:

☒ dated 04/08/2004 given by DEVELOPMENT SERVICE, INC

☒ dated 04/08/2004 given by KEITH G PARNELL

☐ Securities Account Pledge and Security Agreement dated \_\_\_\_\_, executed by \_\_\_\_\_

☐ Control Agreement(s) dated \_\_\_\_\_, covering ☐ Deposit Account(s) ☐ Investment Property  
☐ Letter of Credit Rights ☐ Electronic Chattel Paper

☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated \_\_\_\_\_, executed by \_\_\_\_\_

☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated \_\_\_\_\_, executed by \_\_\_\_\_

☒ Assignment of Life Insurance Policy as Collateral dated 04/08/2004, executed by KEITH G PARNELL

☒ Loan Agreement dated 04/08/2004, executed by Borrower and ☒ Guarantor(s).

☒ See Attachment to BB&T Note dated 04/08/2004 in the amount of \$2,021,400.00.

All of the terms, conditions and covenants of the above described agreements (the "Agreements") are expressly made a part of this promissory note (the "Note") by reference in the same manner and with the same effect as if set forth herein at length and any holder of this Note is entitled to the benefits of and remedies provided in the Agreements and any other agreements by and between the undersigned and the Bank.

No delay or omission on the part of the holder in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or of any other right on any future occasion. Every one of the undersigned and every endorser or guarantor of this Note regardless of the time, order or place of signing waives presentment, demand, protest and notices of every kind and assents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral if at any time there be available to the holder collateral for this Note, and to the additions or releases of any other parties or persons primarily or secondarily liable.

The failure to pay any part of the principal or interest when due on this Note or to fully perform any covenant, obligation or warranty on this or on any other liability to the Bank by any affiliate (as defined in 11 USC Section (101) (2)), or by any guarantor or surety of this Note (said affiliate, guarantor, and surety are herein called "Obligor"); or if any financial statement or other representation made to the Bank by any of the undersigned or any Obligor shall be found to be materially incorrect or incomplete; or in the event the default pursuant to any of the Agreements or any other obligation of any of the undersigned or any Obligor in favor of the Bank; or in the event the Bank demands that the undersigned secure or provide additional security for its obligations under this Note and security deemed adequate and sufficient by the Bank is not given when demanded; or in the event one or more of the undersigned or any Obligor shall die, terminate its existence, allow the appointment of a receiver for any part of its property, make an assignment for the benefit of creditors, or where a proceeding under bankruptcy or insolvency laws is initiated by or against any of the undersigned or any Obligor; or in the event the Bank should otherwise deem itself, its security interest, or any collateral unsafe or insecure; or should the Bank in good faith believe that the prospect of payment or other performance is impaired; or if there is an attachment, execution, or other judicial seizure of all or any portion of the Borrower's or any Obligor's assets, including an action or proceeding to seize any funds on deposit with the Bank, and such seizure is not discharged within 20 days; or if final judgment for the payment of money shall be rendered against the Borrower or any Obligor which is not covered by insurance and shall remain undischarged for a period of 30 days unless such judgment or execution thereon is effectively stayed; or the termination of any guaranty agreement given in connection with this Note, then any one of the same shall be a material default hereunder and this Note and other debts due the Bank by any one or more of undersigned shall immediately become due and payable without notice, at the option of the Bank. From and after any event of default hereunder, interest shall accrue on the sum of the principal balance and accrued interest then outstanding at the variable rate equal to the Bank's Prime Rate plus 5% per annum ("Default Rate"), provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of South Carolina; and further provided that such rate shall apply after judgement. In the event of any default, the then remaining unpaid principal amount and accrued but unpaid interest then outstanding shall bear interest at the Default Rate called for hereunder until such principal and interest have been paid in full. In addition, upon default, the Bank may pursue its full legal remedies at law or equity, and the balance due hereunder may be charged against any obligation of the Bank to any party, including any Obligor. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

## PROMISSORY NOTE SIGNATURE PAGE

Borrower: MIDLANDS UTILITY, INCAccount Number: 9521421107Note Amount: \$ 2,021,400.00Note Number: 00001Date: 04/08/2004

**Notice of Right to Copy of Appraisal:** If a 1-4 family residential dwelling is pledged as collateral for this Note, you, the undersigned, have a right to a copy of the real estate appraisal report used in connection with your application for credit. If you wish to receive a copy, please notify in writing the branch office where you applied for credit. You must forward your request to the Bank no later than 90 days after the date of this Note. In your request letter, please provide your name, mailing address, appraised property address, the date of this Note, and the Account and Note Numbers shown on the front of this Note.

**Waiver of Appraisal Rights.** The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE FULLEST EXTENT PERMITTED BY LAW AND AS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN, MORTGAGOR HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this note to be executed under seal.

## If Borrower is a Corporation:

WITNESS:

MIDLANDS UTILITY, INC

NAME OF CORPORATION

By: Keith G. Parrell PresidentBy: Charles K Parrell Vice PresidentBUSH RIVER UTILITIES, INC.

NAME OF CORPORATION

By: Keith G. Parrell PresidentBy: Charles K Parrell Vice PresidentDEVELOPMENT SERVICE, INC.

NAME OF CORPORATION

By: Keith G. Parrell PresidentBy: Charles K Parrell Vice President

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

NAME OF PARTNERSHIP, LLC, OR LLP

By: \_\_\_\_\_ (SEAL)

GENERAL PARTNER OR MANAGER

By: \_\_\_\_\_ (SEAL)

GENERAL PARTNER OR MANAGER

By: \_\_\_\_\_ (SEAL)

GENERAL PARTNER OR MANAGER

WITNESS:

If Borrower is an Individual:

(SEAL)

WITNESS:

Additional Co-makers:

(SEAL)

(SEAL)

(SEAL)

(SEAL)

The term "Prime Rate," if used herein, means the rate of interest per annum announced by the Bank from time to time and adopted as its Prime Rate. The Prime Rate is one of several rate indexes employed by the Bank when extending credit. Any change in the interest rate resulting from a change in the Bank's Prime Rate shall become effective as of the opening of business on the effective date of the change. If this Note is placed with an attorney for collection, the undersigned agrees to pay, in addition to principal and interest, all costs of collection, including reasonable attorneys' fees which the undersigned agrees shall be equal to 15% of the principal and interest outstanding at the time of acceleration or other action by Lender to collect the sums due hereunder, unless the actual attorneys' fees incurred, based upon Bank's counsel's normal hourly fees chargeable to Bank, shall be greater than 15% of principal and interest, in which case such billed amount based on such hourly rate shall be the attorneys' fee payable hereunder. All obligations of the undersigned and of any Obligor shall bind his heirs, executors, administrators, successors, and/or assigns. Use of the masculine pronoun herein shall include the feminine and the neuter, and also the plural. If more than one party shall execute this Note, the term "undersigned" as used herein shall mean all the parties signing this Note and each of them, and all such parties shall be jointly and severally obligated hereunder. Whenever possible, each provision of this Note shall be interpreted in such a manner to be effective and valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under such law, such provision shall be ineffective but only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note. All of the undersigned hereby waive all exemptions and homestead laws. The proceeds of the loan evidenced by this Note may be paid to any one or more of the undersigned. No waivers and modifications shall be valid unless in writing and signed by the Bank. In case of conflict between the terms of this Note and the Loan Agreement or Commitment Letter issued in connection herewith, the priority of controlling terms shall be first this Note, then the Loan Agreement, and then the Commitment Letter. This Note shall be governed by and construed in accordance with the laws of South Carolina.

#### CREDIT LIFE AND DISABILITY INSURANCE

Subject to certain underwriting criteria and limitations, INDIVIDUAL BORROWERS AND ADDITIONAL CO-MAKERS HAVE THE RIGHT TO REQUEST CREDIT LIFE AND DISABILITY INSURANCE PROTECTION FOR THIS LOAN. One or two Borrowers/Co-makers may be covered by BB&T Credit Life Insurance and one Borrower/Co-maker may be covered by BB&T Credit Disability Insurance. However, the purchase of credit life and credit disability insurance from the Bank is not a condition of obtaining this loan.

I, the undersigned, desire the credit insurance with the cost and terms described below and promise to pay the premium of such insurance coverage. I understand that I may cancel this credit insurance at any time. I represent that, to the best of my knowledge, I am in good health and am insurable.

☐ Product I : Complete the following: ☐ Fidelity Security Insurance Company Flex Plan (Complete separate application)

##### CREDIT LIFE INSURANCE

|                                 |                                     |                |              |                 |               |                     |
|---------------------------------|-------------------------------------|----------------|--------------|-----------------|---------------|---------------------|
| <input type="checkbox"/> Single | <input type="checkbox"/> Level      | Effective Date | Term in Mos. | Amount Financed | Interest Rate | Credit Life Premium |
| <input type="checkbox"/> Joint  | <input type="checkbox"/> Decreasing |                |              | \$              |               | \$                  |

##### CREDIT DISABILITY INSURANCE

|                                     |                        |                           |
|-------------------------------------|------------------------|---------------------------|
| Effective Date and Terms in Mos.    | Monthly Benefit Amount | Credit Disability Premium |
| Same as Credit Life Insurance Above | \$                     | \$                        |

Credit Disability Insurance is subject to a 14-day elimination period and a 60-month maximum benefit period. Only the Borrower or Co-Maker who signs the first line under "Signature(s) of Insured" is covered by Credit Disability Insurance.

|               |                                |  |
|---------------|--------------------------------|--|
| Date of Birth | Signature(s) of Insured        | Total Credit Life and Disability Insurance Premium |
|               | Signature of Primary Insured   |  |
|               | Signature of Secondary Insured | \$   |

(SIGNATURES ON FOLLOWING PAGE)

# ATTACHMENT TO BI

Nc

Attachment of BB&T Promissory Note dated 04/08/2004 in the amount of \$2,021,400.00 between Branch Banking & Trust Company of South Carolina as Bank, and MIDLANDS UTILITY, INC, BUSH RIVER UTILITIES, INC and DEVELOPMENT SERVICE, INC, as Borrower.

## I. Repayment terms of this note are as follows:

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## II. Mortgage granted in favor of Bank as beneficiary:

☒ dated 04/08/2004 in the maximum principal amount of \$ 2,021,400.00  
granted by MIDLANDS UTILITY, INC

☒ dated 04/08/2004 in the maximum principal amount of \$ 2,021,400.00  
granted by MIDLANDS UTILITY, INC

☒ dated 04/08/2004 in the maximum principal amount of \$ 2,021,400.00  
granted by BUSH RIVER UTILITIES INC

☒ dated 04/08/2004 in the maximum principal amount of \$ 2,021,400.00  
granted by MIDLANDS UTILITY, INC

☐ dated \_\_\_\_\_ in the maximum principal amount of \$ \_\_\_\_\_  
granted by \_\_\_\_\_

## III. Security Agreement(s) conveying a security interest in favor of Bank:

☒ dated 04/08/2004 given by CHARLES K PARNELL

☒ dated 04/08/2004 given by BUSH RIVER UTILITIES, INC

☒ dated 04/08/2004 given by MIDLANDS UTILITY, INC

☒ dated 04/08/2004 given by CHARLES K PARNELL

☒ dated 04/08/2004 given by KEITH G PARNELE

## IV. Additional Agreements, Assignments, Pledges or other security instruments:

☒ Assignment of Life Insurance Policy dated 04/08/2004 for policy #3423867 executed by  
CHARLES K PARNELL

☐

☐

☐

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☐

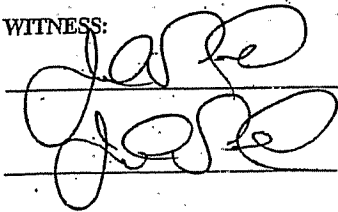
☐



IN WITNESS WHEREOF, the undersigned, on the day and year first writ

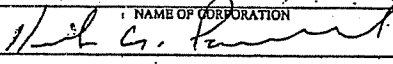
If Borrower is a Corporation:

WITNESS:

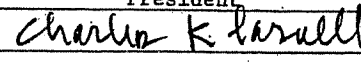


MIDLANDS UTILITY, INC.

NAME OF CORPORATION

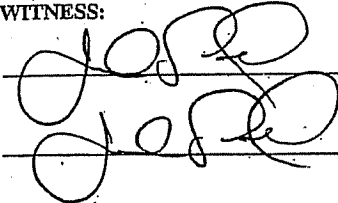
By:  (SEAL)

Title: President

By:  (SEAL)

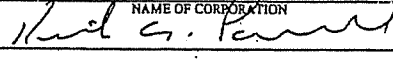
Title: Vice President

WITNESS:

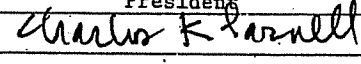


BUSH RIVER UTILITIES, INC.

NAME OF CORPORATION

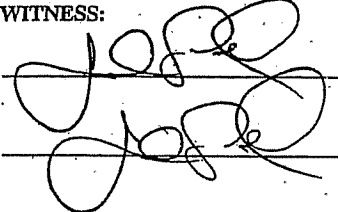
By:  (SEAL)

Title: President

By:  (SEAL)

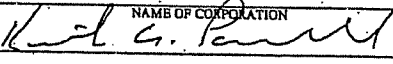
Title: Vice President

WITNESS:

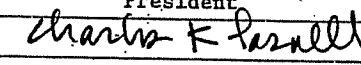


DEVELOPMENT SERVICE, INC.

NAME OF CORPORATION

By:  (SEAL)

Title: President

By:  (SEAL)

Title: Vice President

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAME OF PARTNERSHIP, LLC, or LLP

By: \_\_\_\_\_ (SEAL)  
GENERAL PARTNER OR MANAGER

By: \_\_\_\_\_ (SEAL)  
GENERAL PARTNER OR MANAGER

By: \_\_\_\_\_ (SEAL)  
GENERAL PARTNER OR MANAGER

WITNESS:

If Borrower is an Individual

\_\_\_\_\_ (SEAL)

WITNESS:

Additional Co-makers

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

## CERTIFICATE OF SERVICE

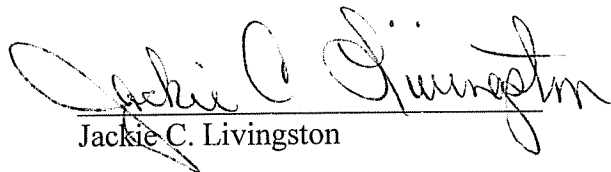
The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the Direct Testimony of Keith G. Parnell on behalf of Midlands Utility, Inc., indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE:            Application of Midlands Utility, Inc. for an approval of New  
Schedule of Rates and Chares for Sewage Service provided to  
its customers in Richland, Lexington, Fairfield and Orangeburg Counties.

Docket No.: 2004-297-S

PARTIES SERVED:       Florence P. Belser, Esquire  
ORS  
P. O. Box 11263  
Columbia, SC 29211

Wendy B. Cartledge, Esquire  
ORS  
P. O. Box 11263  
Columbia, SC 29211

  
Jackie C. Livingston

January 27, 2005